

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 11/04/2021

OSMONDO SMITH,

Petitioner,

-v-

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent.

20-cv-9708 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

The Court received a letter from Petitioner Smith, which is docketed at entry number 9 and is dated December 29, 2020. Dkt. No. 9. The letter was entered on the docket by the Clerk as court-view only because portions of it contain personal information including personal medical information. However, the letter also contains an additional ground (“ineffective counsel”) for Mr. Smith’s amended petition under 28 U.S.C. § 2254 for a writ of habeas corpus, with the request that this new ground be incorporated by reference.

The Court finds that the first five pages of the twelve-page letter set forth Petitioner’s additional ground for his amended petition and that these pages do not contain personal information. The Court will file the letter with these pages unsealed on the docket in this case. The full twelve-page letter will be made available to Respondent in addition to Petitioner and court personnel.

The Court construes Petitioner’s request to incorporate the new ground as a request to amend his pending petition. The request is granted. *See Zarvela v. Artuz*, 254 F.3d 374, 382 (2d Cir. 2001) (“[A] habeas petitioner, like any civil litigant, is entitled to amend his petition . . .”); *Bell v. Ercole*, 631 F. Supp. 2d 406, 413 (S.D.N.Y. 2009) (stating that a pro se petitioner’s “submissions should be held to less stringent standards than formal pleadings drafted by lawyers” (internal quotation marks omitted)).

It is hereby ORDERED that, by December 3, 2021, Respondent shall file a supplemental response addressing this additional ground for Petitioner’s application for a writ of habeas corpus. Petitioner may then file a reply before January 14, 2021.

The Clerk of Court is respectfully directed to modify the viewing level of Petitioner’s letter (Dkt. No. 9) to the Selected Parties viewing level.

The Clerk of Court is respectfully directed to mail a copy of this Order to Petitioner.

SO ORDERED.

Dated: November 4, 2021
New York, New York

A handwritten signature in black ink, appearing to read 'L. Liman', is written above a horizontal line.

LEWIS J. LIMAN
United States District Judge